

State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0879/PJ

PJK:jld:rs

r mis

1/18

DOA:.....Blaine, BB0258 - Allow DHFS to recover incorrect payments under MA and BadgerCare based on failure to report nonfinancial information

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

D-vote

do not get cut

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MEDICAL ASSISTANCE

Under current law, DHFS administers the Medical Assistance (MA) program and the Badger Care (BadgerCare) health care program. Generally, under MA DHFS pays for health care services provided to eligible low-income persons, and under BadgerCare DHFS pays for health care services provided to certain low-income children who do not reside with a parent and to certain low-income families. Current law provides that DHFS may recover incorrect payments that were made for health care services under MA that resulted from a misstatement or omission of fact by a person supplying information in an application for benefits or from the failure of a person to report the receipt of income or assets in an amount that would have affected a recipient's eligibility for benefits.

This bill adds that DHFS may also recover incorrect payments made for health care services under MA that result from the failure of a person to report changes in a recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or his or her cost-sharing requirements, and provides that DHFS may recover incorrect payments made for

health care services under BadgerCare resulting from any of the same reasons for which DHFS may recover incorrect payments made under MA.

The bill also provides that, if an MA or BadgerCare recipient to or for whom an incorrect payment was made fails, after notice, to repay the incorrect amount, DHFS may bring an action to enforce repayment or may issue an order to compel repayment. The recipient has 30 days to appeal the order, but if he or she does not pay the amount due under the order and does not appeal the order within 30 days, DHFS may present a certified copy of the order to the circuit court. The circuit court must render a judgment in accordance with the order without further notice to the recipient. The judgment may be enforced in the same manner as any other judgment rendered by a court. In addition, DHFS must certify the obligation to DOR for collection as a setoff against any state income tax refund that is due the recipient. This procedure for obtaining a judgment for the amount of an incorrect payment and for collecting the amount as a tax refund setoff is similar to the procedure in current law for obtaining a judgment for, and collecting, amounts owed to DHFS for various types of care, maintenance, and services that DHFS is required to provide, such as to persons committed to inpatient treatment facilities, to persons criminally committed to mental health institutions, to juveniles taken into custody for emergency detention, and to persons protectively placed or receiving protective services.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 20.435 (4) (L) of the statutes is amended to read:

2 20.435 (4) (L) *Medical assistance* Assistance and food stamp fraud and error
3 *reduction*. All moneys received as the state's share of the recovery of overpayments
4 and incorrect payments under ss. 49.497 (1) and (1m) and 49.793 (2) and all moneys
5 received from counties and tribal governing bodies as a result of any error reduction
6 activities in the ~~medical assistance~~ Medical Assistance and food stamp programs
7 under ss. 49.45 (2) (a) 3m., 49.197, and 49.79 (9), for contracts under s. 49.197 (5), for
8 any activities to reduce error and fraud under ss. 49.45 (2) (a) 3m. and 49.79 (9), to
9 pay federal sanctions under the food stamp program, and for food stamp

reinvestment activities under reinvestment agreements with the federal department of agriculture that are designed to improve the food stamp program.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 2. 49.497 (title) of the statutes is amended to read:

49.497 (title) **Recovery of incorrect ~~medical assistance~~ Medical Assistance or Badger Care payments.**

SECTION 3. 49.497 (1) of the statutes is renumbered 49.497 (1) (a) (intro.) and amended to read:

49.497 (1) (a) (intro.) The department may recover any payment made incorrectly for benefits specified under s. 49.46, 49.468 or, 49.47, or 49.665 if the incorrect payment results from any of the following:

1. A misstatement or omission of fact by a person supplying information in an application for benefits under s. 49.46, 49.468 or, 49.47, or 49.665.

2. The department may also recover if a ~~medical assistance~~ failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf fails to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits.

(b) The department's right of recovery is against any ~~medical assistance~~ Medical Assistance or Badger Care recipient to whom or on whose behalf the incorrect payment was made. The extent of recovery is limited to the amount of the benefits incorrectly granted. The county department under s. 46.215 or 46.22 or the governing body of a federally recognized American Indian tribe administering ~~medical assistance~~ Medical Assistance or Badger Care shall begin recovery actions on behalf of the department according to rules promulgated by the department.

1 **SECTION 4.** 49.497 (1) (a) 3. of the statutes is created to read:

2 49.497 (1) (a) 3. The failure of a Medical Assistance or Badger Care recipient
3 or any other person responsible for giving information on the recipient's behalf to
4 report any change in the recipient's financial or nonfinancial situation or eligibility
5 characteristics that would have affected the recipient's eligibility for benefits or the
6 recipient's cost-sharing requirements.

7 **SECTION 5.** 49.497 (1m) of the statutes is created to read:

8 49.497 (1m) (a) If, after notice that an incorrect payment was made, a recipient
9 who is liable for repayment of an incorrect payment fails to repay the incorrect
10 payment or enter into, or comply with, an agreement for repayment, the department
11 may bring an action to enforce the liability or may issue an order to compel payment
12 of the liability. Any person aggrieved by an order issued by the department under
13 this paragraph may appeal the order as a contested case under ch. 227 by filing with
14 the department a request for a hearing within 30 days after the date of the order.

15 (b) ^{✓, or parent of a minor recipient,} If any recipient named in an order to compel payment issued under par. (a)
16 fails to pay the department any amount due under the terms of the order and no
17 contested case to review the order is pending and the time for filing for a contested
18 case review has expired, the department may present a certified copy of the order to
19 the circuit court for any county. The sworn statement of the secretary shall be
20 evidence of the incorrect payment. The circuit court shall, without notice, render
21 judgment in accordance with the order. A judgment rendered under this paragraph
22 shall have the same effect and shall be entered in the judgment and lien docket and
23 may be enforced in the same manner as if the judgment had been rendered in an
24 action tried and determined by the circuit court.

✓, or parent of a
minor recipient,

Insert 4-14

(c) The recovery procedure under this subsection is in addition to any other recovery procedure authorized by law.

SECTION 6. 49.497 (2) of the statutes is amended to read:

49.497 (2) A county or governing body of a federally recognized American Indian tribe may retain 15% of benefits distributed under s. 49.46, 49.468 or, 49.47 or 49.665 that are recovered under sub. (1) this section due to the efforts of an employee or officer of the county or tribe.

SECTION 7. 49.497 (3) of the statutes is amended to read:

49.497 (3) Cash assets of ~~medical assistance~~ Medical Assistance or Badger Care recipients that exceed asset limitations shall be applied against the cost of ~~medical assistance~~ Medical Assistance or Badger Care benefits provided.

SECTION 8. 49.497 (4) of the statutes is created to read:

49.497 (4) The department may appear for the state in any and all collection matters under this section, and may commence suit in the name of the department to recover an incorrect payment from the recipient to whom or on whose behalf it was made.

SECTION 9. 49.497 (5) of the statutes is created to read:

49.497 (5) The department may make an agreement with a recipient who is liable under sub. (1), providing for repayment of an incorrect payment at a specified rate or amount.

SECTION 10. 49.855 (2m) of the statutes is amended to read:

49.855 (2m) At least annually, the department of health and family services shall certify to the department of revenue any obligation owed to the department of health and family services under s. 46.10 or 49.497 if the obligation is rendered to a judgment.

✓ 49.45(24r)

✓ 49.472, 49.473

✓, or parent of a minor recipient

1 **SECTION 11.** 49.855 (3) of the statutes is amended to read:

2 49.855 (3) Receipt of a certification by the department of revenue shall
3 constitute a lien, equal to the amount certified, on any state tax refunds or credits
4 owed to the obligor. The lien shall be foreclosed by the department of revenue as a
5 setoff under s. 71.93 (3), (6), and (7). When the department of revenue determines
6 that the obligor is otherwise entitled to a state tax refund or credit, it shall notify the
7 obligor that the state intends to reduce any state tax refund or credit due the obligor
8 by the amount the obligor is delinquent under the support, maintenance, or receiving
9 and disbursing fee order or obligation, by the outstanding amount for past support,
10 medical expenses, or birth expenses under the court order, or by the amount due
11 under s. 46.10 (4), 49.497 (1m), or 301.12 (4). The notice shall provide that within
12 20 days the obligor may request a hearing before the circuit court rendering the order
13 under which the obligation arose. Within 10 days after receiving a request for
14 hearing under this subsection, the court shall set the matter for hearing. Pending
15 further order by the court or a circuit court commissioner, the department of
16 workforce development or its designee, whichever is appropriate, is prohibited from
17 disbursing the obligor's state tax refund or credit. A circuit court commissioner may
18 conduct the hearing. The sole issues at that hearing shall be whether the obligor
19 owes the amount certified and, if not and it is a support or maintenance order,
20 whether the money withheld from a tax refund or credit shall be paid to the obligor
21 or held for future support or maintenance.

22 **SECTION 12.** 49.855 (4m) (b) of the statutes is amended to read:

23 49.855 (4m) (b) The department of revenue may provide a certification that it
24 receives under sub. (1), (2m), or (2p) to the department of administration. Upon
25 receipt of the certification, the department of administration shall determine

1 whether the obligor is a vendor or is receiving any other payments from this state,
2 except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s.
3 45.351 (1), this chapter, or ch. 46, 108, or 301. If the department of administration
4 determines that the obligor is a vendor or is receiving payments from this state,
5 except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s.
6 45.351 (1), this chapter, or ch. 46, 108, or 301, it shall begin to withhold the amount
7 certified from those payments and shall notify the obligor that the state intends to
8 reduce any payments due the obligor by the amount the obligor is delinquent under
9 the support, maintenance, or receiving and disbursing fee order or obligation, by the
10 outstanding amount for past support, medical expenses, or birth expenses under the
11 court order, or by the amount due under s. 46.10 (4), 49.497 (1m), or 301.12 (4). The
12 notice shall provide that within 20 days after receipt of the notice the obligor may
13 request a hearing before the circuit court rendering the order under which the
14 obligation arose. An obligor may, within 20 days after receiving notice, request a
15 hearing under this paragraph. Within 10 days after receiving a request for hearing
16 under this paragraph, the court shall set the matter for hearing. A circuit court
17 commissioner may conduct the hearing. Pending further order by the court or circuit
18 court commissioner, the department of workforce development or its designee,
19 whichever is appropriate, may not disburse the payments withheld from the obligor.
20 The sole issues at the hearing are whether the obligor owes the amount certified and,
21 if not and it is a support or maintenance order, whether the money withheld shall be
22 paid to the obligor or held for future support or maintenance.

23 **SECTION 9321. Initial applicability; health and family services.**

24 (1) RECOVERY OF INCORRECT PAYMENTS.

✓ and

g
✓

1 (a) *BadgerCare*. The treatment of sections 49.497 (title) (2) and (3) of the
2 statutes and the renumbering and amendment of section 49.497 (1) of the statutes
3 first apply to incorrect payments made under the Badger Care health care program
4 on the effective date of this paragraph.

5 (b) *Medical Assistance and BadgerCare*. The treatment of sections 20.435 (4)
6 (L), 49.497 (1m), (4), and (5), and 49.855 (2m), (3), and (4m) (b) of the statutes and
7 the creation of section 49.497 (1) (a) 3. of the statutes first apply to incorrect
8 payments made under Medical Assistance or the Badger Care health care program
9 on the effective date of this paragraph.

10 (END)

D. note

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0879/lins
PJK:jld:rs

INSERT 4-14

- 1 *not* The only issue at hearing shall be the determination by the department *✓* that the
2 person has not repaid the incorrect payment or entered into, or complied with, an
3 agreement for repayment.

(END OF INSERT 4-14)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0879/1dn
PJK:jld:rs

Robert:

1. Re. your redraft instruction number 1: Rather than adding specific sections for specific benefits, perhaps it would be even better just to refer to "benefits provided under this subchapter and s. 49.665."

* 2. Re. your redraft instruction number 2: Proposed s. 49.497 (1m) is patterned after s. 46.10 (4) and (5). Section 49.10 (4), upon which proposed s. 49.497 (1m) (a) is patterned, does not include the language about no contested case pending and the time for filing having expired; s. 49.10 (5), upon which proposed s. 49.497 (1m) (b) is patterned, does include that language. It would seem inappropriate to include the language in both pars. (a) and (b). The person has the right to a fair hearing after an order to compel payment is issued but before a court issues an order on the basis of the order to compel payment. If DHFS brings an action instead of issuing an order to compel payment, the person has a right to a hearing in the action. In any case, they have a right to a fair hearing before any court orders payment, whether by judgment in an action or in response to an order to compel payment issued by DHFS. Adding the proposed language would afford a right to two hearings, one before and one after DHFS issues an order to compel payment. Is this what you want?

3. Re. your comment number 4: I don't think that there is a conflict between s. 49.497 and s. 49.85, but proposed s. 49.497 (1m) (c) is intended to address the fact that there seem to be many provisions that accomplish the same thing but in different ways, i.e., recover incorrect payments.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0879/1dn
PJK:jld:pg

January 18, 2005

Robert:

1. Re. your redraft instruction number 1: Rather than adding specific sections for specific benefits, perhaps it would be even better just to refer to "benefits provided under this subchapter and s. 49.665."
2. Re. your redraft instruction number 2: Proposed s. 49.497 (1m) is patterned after s. 46.10 (4) and (5). Section 46.10 (4), upon which proposed s. 49.497 (1m) (a) is patterned, does not include the language about no contested case pending and the time for filing having expired; s. 46.10 (5), upon which proposed s. 49.497 (1m) (b) is patterned, does include that language. It would seem inappropriate to include the language in both pars. (a) and (b). The person has the right to a fair hearing after an order to compel payment is issued but before a court issues an order on the basis of the order to compel payment. If DHFS brings an action instead of issuing an order to compel payment, the person has a right to a hearing in the action. In any case, they have a right to a fair hearing before any court orders payment, whether by judgment in an action or in response to an order to compel payment issued by DHFS. Adding the proposed language would afford a right to two hearings, one before and one after DHFS issues an order to compel payment. Is this what you want?
3. Re. your comment number 4: I don't think that there is a conflict between s. 49.497 and s. 49.85, but proposed s. 49.497 (1m) (c) is intended to address the fact that there seem to be many provisions that accomplish the same thing but in different ways, i.e., recover incorrect payments.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

Kahler, Pam

From: Blaine, Robert
Sent: Friday, January 21, 2005 8:19 AM
To: Kahler, Pam
Subject: FW: FW: LRB Draft: 05-0879/1 Allow DHFS to recover incorrect payments under MA and BadgerCare based



05-08791.pdf



05-08791dn.pdf

Pam --

I haven't had a chance to read this (quite lengthy) discourse on this draft, but thought I should get it to you quickly nonetheless. Call me if you want to discuss.

-----Original Message-----

From: LaPhilliph, John
Sent: Thursday, January 20, 2005 4:13 PM
To: Blaine, Robert
Cc: Riedasch, Scott; Cunningham, Curtis; Malofsky, Shelley; Megna, Richard
Subject: Re: FW: LRB Draft: 05-0879/1 Allow DHFS to recover incorrect payments under MA and BadgerCare based

Robert, here are the DHFS responses to LRB.

✓ Drafter Note #1: We agree with your suggested wording change of, "benefits provided under this subchapter and s. 49.665."

✓ Drafter Note #2: Medicaid law will require an opportunity for a fair hearing before the order to compel is issued, but we agree that it does not need to be mentioned and therefore agree with the current draft of s. 49.497(1m)(a).

Drafter Note #3: We agree with the drafter that there is not a conflict between 49.497 & 49.85. However, we do have two issues we would like LRB to consider. First, the process we intend to implement is that only after we obtain the circuit court's judgement under 49.497(1m)(b) will the department follow the process described in 49.85(2)(a) & (3) and notify the dept. of revenue (DOR) of medicaid recovery amounts owed to DHFS. Given the current wording of 49.85(2), we are concerned that it may not be clear to a reader that we will refer collections to DOR only AFTER a court judgement has been issued. We are also not sure that (1m)(c), as drafted, would make it clear that the court order has to come before we ever go to DOR. While not so much an issue for our internal process, we wish to assure legal advocates that our statutes bind the department to follow a process required under federal medicaid law.

Our second issue is that by modifying 49.855 to make its provisions apply to recoveries under 49.497, we are further complicating the collection process and making it less cost effective for the department. It appears to us that 49.85 and 49.855 are intended to be parallel tracks for different kinds of debts. By modifying 49.855 to include medicaid overpayments, which are already part of 49.85, recoveries of those debts would now have to follow both statutes. We have the following concerns. First, it adds yet another hearing opportunity for a recipient who has been overpaid benefits through their own action or inaction, and further delaying the department's collection efforts. Since, under 49.85(3), DHFS would be required to send a notice, and opportunity for hearing, 30 days before we certify a debt to DOR, and under 49.85(5), DHFS would be required to notify DOR of any collections made subsequent to the certification, we see no reason to require DOR to issue

another notice, and opportunity for hearing, under 49.855(3) prior to actually intercepting the taxes. Second, 49.855(3) & (4m)(b) allow the client to contest the obligation back in circuit court. Such actions could result in additional legal and administrative expenses for both the counties and DHFS, and add a layer of review that was not anticipated in 49.85 for intercept of public assistance debts. Third, we do not count many vendors among our Medicaid and BadgerCare recipients and do not anticipate any significant collections to be made through a process with DOA collecting obligations from vendors. Finally, we are not aware of any other provisions in law requiring the notice and hearing opportunities expressed in s. 49.855.

For these reasons, we are asking that the draft remove the references to 49.497 from 49.855. In addition, we are asking that the drafter clarify in 49.85 that DHFS would have to obtain the court judgement in 49.497(1m) prior to certifying the obligation to DOR.

Aside from the issues described here, we have no other concerns over the draft. Thank you.

* * * * *

NOTICE: This email and any attachments may contain confidential information. Use and further disclosure of the information by the recipient must be consistent with applicable laws, regulations and agreements. If you received this email in error, please notify the sender; delete the email; and do not use, disclose or store the information it contains.

* * * * *

John LaPhilliph
Lead Health Care Eligibility Innovations Planner
Bureau of Eligibility Management
Division of Health Care Financing
Wisconsin Department of Health and Family Services
608-266-6772
laphijo@dhfs.state.wi.us

>>> Blaine, Robert 1/18/2005 12:21:20 PM >>>

As with other drafts I have forwarded today, if any additional changes are required, I need to know by 1/20 (Thurs.) at the latest. Thanks.

Robert Blaine

-----Original Message-----

From: Greenslet, Patty [mailto:Patty.Greenslet@legis.state.wi.us]
Sent: Tuesday, January 18, 2005 11:09 AM
To: Blaine, Robert
Cc: Johnston, James; Hanaman, Cathlene; Haugen, Caroline; Merry-Mason, Monica
Subject: LRB Draft: 05-0879/1 Allow DHFS to recover incorrect payments under MA and BadgerCare based on failure to report nonfinancial information

Following is the PDF version of draft 05-0879/1.



State of Wisconsin
2005 - 2006 LEGISLATURE

TODAY

LRB-0879/1²

PJK:jld:pg

rmis run

DOA:.....Blaine, BB0258 - Allow DHFS to recover incorrect payments under MA and BadgerCare based on failure to report nonfinancial information

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

D-note

do not
gen cat

1 AN ACT ^{do not gen cat}; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MEDICAL ASSISTANCE

Under current law, DHFS administers the Medical Assistance (MA) program and the Badger Care (BadgerCare) health care program. Generally, under MA DHFS pays for health care services provided to eligible low-income persons, and under BadgerCare DHFS pays for health care services provided to certain low-income children who do not reside with a parent and to certain low-income families. Current law provides that DHFS may recover incorrect payments that were made for health care services under MA that resulted from a misstatement or omission of fact by a person supplying information in an application for benefits or from the failure of a person to report the receipt of income or assets in an amount that would have affected a recipient's eligibility for benefits.

This bill adds that DHFS may also recover incorrect payments made for health care services under MA that result from the failure of a person to report changes in a recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or his or her cost-sharing requirements, and provides that DHFS may recover incorrect payments made for

health care services under BadgerCare resulting from any of the same reasons for which DHFS may recover incorrect payments made under MA.

The bill also provides that, if an MA or BadgerCare recipient to or for whom an incorrect payment was made fails, after notice, to repay the incorrect amount, DHFS may bring an action to enforce repayment or may issue an order to compel repayment. The recipient has 30 days to appeal the order, but if he or she does not pay the amount due under the order and does not appeal the order within 30 days, DHFS may present a certified copy of the order to the circuit court. The circuit court must render a judgment in accordance with the order without further notice to the recipient. The judgment may be enforced in the same manner as any other judgment rendered by a court. In addition, DHFS must certify the obligation to DOR for collection as a setoff against any state income tax refund that is due the recipient. This procedure for obtaining a judgment for the amount of an incorrect payment and for collecting the amount as a tax refund setoff is similar to the procedure in current law for obtaining a judgment for, and collecting, amounts owed to DHFS for various types of care, maintenance, and services that DHFS is required to provide, such as to persons committed to inpatient treatment facilities, to persons criminally committed to mental health institutions, to juveniles taken into custody for emergency detention, and to persons protectively placed or receiving protective services.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.435 (4) (L) of the statutes is amended to read:

2 20.435 (4) (L) *Medical assistance* Assistance and food stamp fraud and error
3 *reduction*. All moneys received as the state's share of the recovery of overpayments
4 and incorrect payments under ss. 49.497 (1) and (1m) and 49.793 (2) and all moneys
5 received from counties and tribal governing bodies as a result of any error reduction
6 activities in the ~~medical assistance~~ Medical Assistance and food stamp programs
7 under ss. 49.45 (2) (a) 3m., 49.197, and 49.79 (9), for contracts under s. 49.197 (5), for
8 any activities to reduce error and fraud under ss. 49.45 (2) (a) 3m. and 49.79 (9), to
9 pay federal sanctions under the food stamp program, and for food stamp

1 reinvestment activities under reinvestment agreements with the federal
2 department of agriculture that are designed to improve the food stamp program.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

3 SECTION 2. 49.497 (title) of the statutes is amended to read:

4 49.497 (title) **Recovery of incorrect ~~medical assistance~~ Medical**
5 **Assistance or Badger Care payments.**

6 SECTION 3. 49.497 (1) of the statutes is renumbered 49.497 (1) (a) (intro.) and
7 amended to read:

8 49.497 (1) (a) (intro.) The department may recover any payment made
9 incorrectly for benefits specified under s. 49.45 (24r), 49.46, 49.468 ~~or~~, 49.47, 49.472,
10 49.473, or 49.665 if the incorrect payment results from any of the following:
11 1. A misstatement or omission of fact by a person supplying information in an
12 application for benefits under s. 49.45 (24r), 49.46, 49.468 ~~or~~, 49.47, 49.472, 49.473,
13 or 49.665.

14 2. The department may also recover if a medical assistance failure of a Medical
15 Assistance or Badger Care recipient or any other person responsible for giving
16 information on the recipient's behalf fails to report the receipt of income or assets in
17 an amount that would have affected the recipient's eligibility for benefits.

18 (b) The department's right of recovery is against any ~~medical assistance~~
19 Medical Assistance or Badger Care recipient to whom or on whose behalf the
20 incorrect payment was made. The extent of recovery is limited to the amount of the
21 benefits incorrectly granted. The county department under s. 46.215 or 46.22 or the
22 governing body of a federally recognized American Indian tribe administering

Insert 3-13

1 ~~medical assistance~~ Medical Assistance or Badger Care shall begin recovery actions
2 on behalf of the department according to rules promulgated by the department.

3 **SECTION 4.** 49.497 (1) (a) 3. of the statutes is created to read:

4 49.497 (1) (a) 3. The failure of a Medical Assistance or Badger Care recipient
5 or any other person responsible for giving information on the recipient's behalf to
6 report any change in the recipient's financial or nonfinancial situation or eligibility
7 characteristics that would have affected the recipient's eligibility for benefits or the
8 recipient's cost-sharing requirements.

9 **SECTION 5.** 49.497 (1m) of the statutes is created to read:

10 49.497 (1m) (a) If, after notice that an incorrect payment was made, a recipient,
11 or parent of a minor recipient, who is liable for repayment of an incorrect payment
12 fails to repay the incorrect payment or enter into, or comply with, an agreement for
13 repayment, the department may bring an action to enforce the liability or may issue
14 an order to compel payment of the liability. Any person aggrieved by an order issued
15 by the department under this paragraph may appeal the order as a contested case
16 under ch. 227 by filing with the department a request for a hearing within 30 days
17 after the date of the order. The only issue at hearing shall be the determination by
18 the department that the person has not repaid the incorrect payment or entered into,
19 or complied with, an agreement for repayment.

20 (b) If any recipient, or parent of a minor recipient, named in an order to compel
21 payment issued under par. (a) fails to pay the department any amount due under the
22 terms of the order and no contested case to review the order is pending and the time
23 for filing for a contested case review has expired, the department may present a
24 certified copy of the order to the circuit court for any county. The sworn statement
25 of the secretary shall be evidence of the incorrect payment. The circuit court shall,

1 without notice, render judgment in accordance with the order. A judgment rendered
2 under this paragraph shall have the same effect and shall be entered in the judgment
3 and lien docket and may be enforced in the same manner as if the judgment had been
4 rendered in an action tried and determined by the circuit court.

5 (c) The recovery procedure under this subsection is in addition to any other
6 recovery procedure authorized by law.

7 **SECTION 6.** 49.497 (2) of the statutes is amended to read:

8 49.497 (2) A county or governing body of a federally recognized American
9 Indian tribe may retain 15% of benefits distributed under s. 49.45 (24r), 49.46, 49.468
10 or, 49.47, 49.472, 49.473, or 49.665 that are recovered under sub. (1) this section due
11 to the efforts of an employee or officer of the county or tribe.

12 **SECTION 7.** 49.497 (4) of the statutes is created to read:

13 49.497 (4) The department may appear for the state in any and all collection
14 matters under this section, and may commence suit in the name of the department
15 to recover an incorrect payment from the recipient to whom or on whose behalf it was
16 made.

17 **SECTION 8.** 49.497 (5) of the statutes is created to read:

18 49.497 (5) The department may make an agreement with a recipient, or parent
19 of a minor recipient, who is liable under sub. (1), providing for repayment of an
20 incorrect payment at a specified rate or amount.

21 **SECTION 9.** 49.855 (2m) of the statutes is amended to read:

22 49.855 (2m) At least annually, the department of health and family services
23 shall certify to the department of revenue any obligation owed to the department of
24 health and family services under s. 46.10 or 49.497 if the obligation is rendered to
25 a judgment.

Insert 5-11

1 **SECTION 10.** 49.855 (3) of the statutes is amended to read:

2 49.855 (3) Receipt of a certification by the department of revenue shall
3 constitute a lien, equal to the amount certified, on any state tax refunds or credits
4 owed to the obligor. The lien shall be foreclosed by the department of revenue as a
5 setoff under s. 71.93 (3), (6), and (7). When the department of revenue determines
6 that the obligor is otherwise entitled to a state tax refund or credit, it shall notify the
7 obligor that the state intends to reduce any state tax refund or credit due the obligor
8 by the amount the obligor is delinquent under the support, maintenance, or receiving
9 and disbursing fee order or obligation, by the outstanding amount for past support,
10 medical expenses, or birth expenses under the court order, or by the amount due
11 under s. 46.10 (4), 49.497 (1m), or 301.12 (4). The notice shall provide that within
12 20 days the obligor may request a hearing before the circuit court rendering the order
13 under which the obligation arose. Within 10 days after receiving a request for
14 hearing under this subsection, the court shall set the matter for hearing. Pending
15 further order by the court or a circuit court commissioner, the department of
16 workforce development or its designee, whichever is appropriate, is prohibited from
17 disbursing the obligor's state tax refund or credit. A circuit court commissioner may
18 conduct the hearing. The sole issues at that hearing shall be whether the obligor
19 owes the amount certified and, if not and it is a support or maintenance order,
20 whether the money withheld from a tax refund or credit shall be paid to the obligor
21 or held for future support or maintenance.

22 **SECTION 11.** 49.855 (4m) (b) of the statutes is amended to read:

23 49.855 (4m) (b) The department of revenue may provide a certification that it
24 receives under sub. (1), (2m), or (2p) to the department of administration. Upon
25 receipt of the certification, the department of administration shall determine

1 whether the obligor is a vendor or is receiving any other payments from this state,
2 except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s.
3 45.351 (1), this chapter, or ch. 46, 108, or 301. If the department of administration
4 determines that the obligor is a vendor or is receiving payments from this state,
5 except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s.
6 45.351 (1), this chapter, or ch. 46, 108, or 301, it shall begin to withhold the amount
7 certified from those payments and shall notify the obligor that the state intends to
8 reduce any payments due the obligor by the amount the obligor is delinquent under
9 the support, maintenance, or receiving and disbursing fee order or obligation, by the
10 outstanding amount for past support, medical expenses, or birth expenses under the
11 court order, or by the amount due under s. 46.10 (4), 49.497 (1m), or 301.12 (4). The
12 notice shall provide that within 20 days after receipt of the notice the obligor may
13 request a hearing before the circuit court rendering the order under which the
14 obligation arose. An obligor may, within 20 days after receiving notice, request a
15 hearing under this paragraph. Within 10 days after receiving a request for hearing
16 under this paragraph, the court shall set the matter for hearing. A circuit court
17 commissioner may conduct the hearing. Pending further order by the court or circuit
18 court commissioner, the department of workforce development or its designee,
19 whichever is appropriate, may not disburse the payments withheld from the obligor.
20 The sole issues at the hearing are whether the obligor owes the amount certified and,
21 if not and it is a support or maintenance order, whether the money withheld shall be
22 paid to the obligor or held for future support or maintenance.

23 **SECTION 9321. Initial applicability; health and family services.**

24 (1) RECOVERY OF INCORRECT PAYMENTS.

Insert 7-22 ✓

1 (a) *BadgerCare*. The treatment of sections 49.497 (title) and (2) of the statutes
2 and the renumbering and amendment of section 49.497 (1) of the statutes first apply
3 to incorrect payments made under the Badger Care health care program on the
4 effective date of this paragraph.

5 (b) *Medical Assistance and BadgerCare*. The treatment of sections 20.435 (4)
6 (L) ^{and} 49.497 (1m), (4), and (5), and 49.855 (2m), (3), and (4m) (b) of the statutes and
7 the creation of section 49.497 (1) (a) 3. of the statutes first apply to incorrect
8 payments made under Medical Assistance or the Badger Care health care program
9 on the effective date of this paragraph.

10 (END)

, the renumbering and amendment of
section 49.85 (2)(a) of the statutes,

and 49.85 (2)(a)3.

D-note

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0879/2ins
PJK:jld:pg

INSERT 3-13

1 49.497 (1) (a) (intro.) The department may recover any payment made
2 incorrectly for benefits ~~specified under s. 49.46, 49.468 or 49.47~~ provided under this
3 subchapter or s. 49.665 if the incorrect payment results from any of the following:

4 1. A misstatement or omission of fact by a person supplying information in an
5 application for benefits under s. ~~49.46, 49.468 or 49.47~~ this subchapter or s. 49.665.

(END OF INSERT 3-13)

INSERT 5-11

6 49.497 (2) A county or governing body of a federally recognized American
7 Indian tribe may retain 15% of benefits ~~distributed under s. 49.46, 49.468 or 49.47~~
8 provided under this subchapter or s. 49.665 that are recovered under sub. (1) this
9 section due to the efforts of an employee or officer of the county or tribe.

(END OF INSERT 5-11)

INSERT 7-22

10 **SECTION 1.** 49.85 (2) (a) ^Xof the statutes is renumbered 49.85 (2) (a) (intro.) and
11 amended to read:

12 49.85 (2) (a) (intro.) At least annually, the department of health and family
13 services shall certify to the department of revenue the amounts that, based on the
14 notifications received under sub. (1) and on other information received by the
15 department of health and family services, the department of health and family
16 services has determined that it may recover under s. 49.45 (2) (a) 10. or 49.497, except
17 that the department of health and family services may not certify an amount under
18 this subsection unless it all of the following apply:

1 1. [✓]The department has met the notice requirements under sub. (3) ~~and unless~~
2 its.

3 2. [✓]The department's determination has either not been appealed or is no longer
4 under appeal.

History: 1993 a. 437, 1995 a. 27 ss. 2143 to 2157, 3212, 9126 (19), [✓]30 (4); Stats. 1995 s. 49.85; 1995 a. 289; 1997 a. 3; 2001 a. 16; 2003 a. 33.

5 **SECTION 2.** 49.85 (2) (a) 3. of the statutes is created to read:

6 49.85 (2) (a) 3. If the determination relates to recovery of an amount under s.
7 49.497, [✓]the determination was rendered to a [✓]judgment under s. 49.497 (1m) (b). [✓]

(END OF INSERT 7-22)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0879/2dn


PJK:jld:pg

Robert:

In this version of the draft, I have removed the amendment of s. 49.855[✓] and added to s. 49.85 (2) (a)[✓] the requirement that, before certification to DOR takes place, any determination by DHFS of amounts owed must have been rendered to a judgment, which is what s. 49.855 required. There seems to have been a misunderstanding about what procedures would have been open to, or required of, DHFS under the previous version of the draft, but I hope that the change in this version accomplishes what DHFS wants.

In s. 49.85 (2) (a), I limited the requirement that the determination was rendered to a judgment[✓] to amounts that DHFS may recover under s. 49.497[✓], because this draft only provides for obtaining a judgment for amounts owed under s. 49.497. Presumably, then, amounts to be recovered under s. 49.45 (2) (a) 10[✓] may be certified to DOR without a judgment.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us



(which I hope is okay but which I fear is not)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0879/2dn
PJK:jld:ch

January 21, 2005

Robert:

In this version of the draft, I have removed the amendment of s. 49.855 and added to s. 49.85 (2) (a) the requirement that, before certification to DOR takes place, any determination by DHFS of amounts owed must have been rendered to a judgment, which is what s. 49.855 required. There seems to have been a misunderstanding about what procedures would have been open to, or required of, DHFS under the previous version of the draft, but I hope that the change in this version accomplishes what DHFS wants.

In s. 49.85 (2) (a), I limited the requirement that the determination was rendered to a judgment to amounts that DHFS may recover under s. 49.497, because this draft only provides for obtaining a judgment for amounts owed under s. 49.497. Presumably, then, amounts to be recovered under s. 49.45 (2) (a) 10. may be certified to DOR without a judgment (which I hope is okay but which I fear is not).

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

Kahler, Pam

From: Blaine, Robert
Sent: Monday, January 24, 2005 12:39 PM
To: Kahler, Pam
Subject: FW: FW: LRB Draft: 05-0879/2 Allow DHFS to recover incorrect payments under MA and BadgerCare based



SECTION 9321 -
Initial applica...

Pam --

I'm not sure what to do with this. Any thoughts?

-----Original Message-----

From: LaPhilliph, John
Sent: Monday, January 24, 2005 10:07 AM
To: Blaine, Robert
Cc: Malone, Barbara; Riedasch, Scott; Cunningham, Curtis; Malofsky, Shelley; Megna, Richard
Subject: Re: FW: LRB Draft: 05-0879/2 Allow DHFS to recover incorrect payments under MA and BadgerCare based

I think Pam's changes will work just fine. I don't think we have to worry about her changes not affecting recovery of overpayment to providers (Item #2 in her drafter notes.). The federal law/regulation behind this budget initiative applied only to recovery from recipients.

However, I did notice a problem with the language concerning initial applicability of the provisions. In section 9321 of the draft, she has the new overpayment definition and the new recovery process to, "first apply to incorrect payments made under Medicaid or BadgerCare on the effective date of this paragraph." While it seems appropriate for the new criteria for overpayments to not take affect until the law changes, we want to use the new law to process existing outstanding claims through the courts so that they may be subject to tax intercepts. Currently, we have over \$3.6 million in medicaid overpayments that are delinquent. The recovery office says we would have to write off that amount in claims if we can't use the new process to collect the money they owe. I tried my hand at redrafting that section, though Shelley and I are not sure we need to say anything about the recovery procedures when we want them to apply to current as well as future recoveries.

Please let me know if you have any questions. Thank you.

* * * * *

NOTICE: This email and any attachments may contain confidential information. Use and further disclosure of the information by the recipient must be consistent with applicable laws, regulations and agreements. If you received this email in error, please notify the sender; delete the email; and do not use, disclose or store the information it contains.

* * * * *

John LaPhilliph
Lead Health Care Eligibility Innovations Planner
Bureau of Eligibility Management
Division of Health Care Financing
Wisconsin Department of Health and Family Services
608-266-6772

laphijo@dhfs.state.wi.us

>>> Blaine, Robert 1/23/2005 1:39:13 PM >>>

Please review, and look in particular at Pam's Drafter's Note, item #2.

10am today is the deadline I've been given for any further statutory language changes. Please let me know if Pam's treatment works, and if not, provide alternative language ASAP Monday morning.

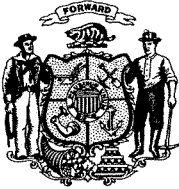
Thanks,
Robert Blaine

SECTION 9321. Initial applicability; health and family services.

(1) RECOVERY OF INCORRECT PAYMENTS.

(a) *Actions subject to recovery.* The treatment of sections 49.497 (title) and (2) of the statutes and the renumbering and amendment of section 49.497 (1) of the statutes and the creation of sections 49.497 (1) (a) 3. first apply to incorrect payments made under the Medical Assistance or the Badger Care health care program on the effective date of this paragraph.

(b) *Recovery procedures .* The treatment of sections 20.435 (4) (L) and 49.497 (1m), (4), and (5) of the statutes, the renumbering and amendment of section 49.85 (2) (a) of the statutes, and the creation of section 49.85 (2) (a) 3. of the statutes first applies to existing overpayments and to future overpayments determined under Medical Assistance or the Badger Care health care program on the effective date of this paragraph.



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0879/3

PJK:jld:ch

TODAY

revision

DOA:.....Blaine, BB0258 - Allow DHFS to recover incorrect payments under MA and BadgerCare based on failure to report nonfinancial information

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

only initial op

do not get cut ✓

1 AN ACT; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MEDICAL ASSISTANCE

Under current law, DHFS administers the Medical Assistance (MA) program and the Badger Care (BadgerCare) health care program. Generally, under MA DHFS pays for health care services provided to eligible low-income persons, and under BadgerCare DHFS pays for health care services provided to certain low-income children who do not reside with a parent and to certain low-income families. Current law provides that DHFS may recover incorrect payments that were made for health care services under MA that resulted from a misstatement or omission of fact by a person supplying information in an application for benefits or from the failure of a person to report the receipt of income or assets in an amount that would have affected a recipient's eligibility for benefits.

This bill adds that DHFS may also recover incorrect payments made for health care services under MA that result from the failure of a person to report changes in a recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or his or her cost-sharing requirements, and provides that DHFS may recover incorrect payments made for

health care services under BadgerCare resulting from any of the same reasons for which DHFS may recover incorrect payments made under MA.

The bill also provides that, if an MA or BadgerCare recipient to or for whom an incorrect payment was made fails, after notice, to repay the incorrect amount, DHFS may bring an action to enforce repayment or may issue an order to compel repayment. The recipient has 30 days to appeal the order, but if he or she does not pay the amount due under the order and does not appeal the order within 30 days, DHFS may present a certified copy of the order to the circuit court. The circuit court must render a judgment in accordance with the order without further notice to the recipient. The judgment may be enforced in the same manner as any other judgment rendered by a court. In addition, DHFS must certify the obligation to DOR for collection as a setoff against any state income tax refund that is due the recipient. This procedure for obtaining a judgment for the amount of an incorrect payment and for collecting the amount as a tax refund setoff is similar to the procedure in current law for obtaining a judgment for, and collecting, amounts owed to DHFS for various types of care, maintenance, and services that DHFS is required to provide, such as to persons committed to inpatient treatment facilities, to persons criminally committed to mental health institutions, to juveniles taken into custody for emergency detention, and to persons protectively placed or receiving protective services.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.435 (4) (L) of the statutes is amended to read:

2 20.435 (4) (L) *Medical assistance* Assistance and food stamp fraud and error
3 *reduction*. All moneys received as the state's share of the recovery of overpayments
4 and incorrect payments under ss. 49.497 (1) and (1m) and 49.793 (2) and all moneys
5 received from counties and tribal governing bodies as a result of any error reduction
6 activities in the ~~medical assistance~~ Medical Assistance and food stamp programs
7 under ss. 49.45 (2) (a) 3m., 49.197, and 49.79 (9), for contracts under s. 49.197 (5), for
8 any activities to reduce error and fraud under ss. 49.45 (2) (a) 3m. and 49.79 (9), to
9 pay federal sanctions under the food stamp program, and for food stamp

1 reinvestment activities under reinvestment agreements with the federal
2 department of agriculture that are designed to improve the food stamp program.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

3 SECTION 2. 49.497 (title) of the statutes is amended to read:

4 49.497 (title) Recovery of incorrect ~~medical assistance~~ Medical
5 Assistance or Badger Care payments.

6 SECTION 3. 49.497 (1) of the statutes is renumbered 49.497 (1) (a) (intro.) and
7 amended to read:

8 49.497 (1) (a) (intro.) The department may recover any payment made
9 incorrectly for benefits ~~specified under s. 49.46, 49.468 or 49.47~~ provided under this
10 subchapter or s. 49.665 if the incorrect payment results from any of the following:

11 1. A misstatement or omission of fact by a person supplying information in an
12 application for benefits under s. 49.46, 49.468 or 49.47 this subchapter or s. 49.665.

13 2. ~~The department may also recover if a medical assistance~~ failure of a Medical
14 Assistance or Badger Care recipient or any other person responsible for giving
15 information on the recipient's behalf fails to report the receipt of income or assets in
16 an amount that would have affected the recipient's eligibility for benefits.

17 (b) The department's right of recovery is against any ~~medical assistance~~
18 Medical Assistance or Badger Care recipient to whom or on whose behalf the
19 incorrect payment was made. The extent of recovery is limited to the amount of the
20 benefits incorrectly granted. The county department under s. 46.215 or 46.22 or the
21 governing body of a federally recognized American Indian tribe administering
22 ~~medical assistance~~ Medical Assistance or Badger Care shall begin recovery actions
23 on behalf of the department according to rules promulgated by the department.

1 **SECTION 4.** 49.497 (1) (a) 3. of the statutes is created to read:

2 49.497 (1) (a) 3. The failure of a Medical Assistance or Badger Care recipient
3 or any other person responsible for giving information on the recipient's behalf to
4 report any change in the recipient's financial or nonfinancial situation or eligibility
5 characteristics that would have affected the recipient's eligibility for benefits or the
6 recipient's cost-sharing requirements.

7 **SECTION 5.** 49.497 (1m) of the statutes is created to read:

8 49.497 (1m) (a) If, after notice that an incorrect payment was made, a recipient,
9 or parent of a minor recipient, who is liable for repayment of an incorrect payment
10 fails to repay the incorrect payment or enter into, or comply with, an agreement for
11 repayment, the department may bring an action to enforce the liability or may issue
12 an order to compel payment of the liability. Any person aggrieved by an order issued
13 by the department under this paragraph may appeal the order as a contested case
14 under ch. 227 by filing with the department a request for a hearing within 30 days
15 after the date of the order. The only issue at hearing shall be the determination by
16 the department that the person has not repaid the incorrect payment or entered into,
17 or complied with, an agreement for repayment.

18 (b) If any recipient, or parent of a minor recipient, named in an order to compel
19 payment issued under par. (a) fails to pay the department any amount due under the
20 terms of the order and no contested case to review the order is pending and the time
21 for filing for a contested case review has expired, the department may present a
22 certified copy of the order to the circuit court for any county. The sworn statement
23 of the secretary shall be evidence of the incorrect payment. The circuit court shall,
24 without notice, render judgment in accordance with the order. A judgment rendered
25 under this paragraph shall have the same effect and shall be entered in the judgment

1 and lien docket and may be enforced in the same manner as if the judgment had been
2 rendered in an action tried and determined by the circuit court.

3 (c) The recovery procedure under this subsection is in addition to any other
4 recovery procedure authorized by law.

5 **SECTION 6.** 49.497 (2) of the statutes is amended to read:

6 49.497 (2) A county or governing body of a federally recognized American
7 Indian tribe may retain 15% of benefits ~~distributed under s. 49.46, 49.468 or 49.47~~
8 provided under this subchapter or s. 49.665 that are recovered under ~~sub. (1) this~~
9 section due to the efforts of an employee or officer of the county or tribe.

10 **SECTION 7.** 49.497 (4) of the statutes is created to read:

11 49.497 (4) The department may appear for the state in any and all collection
12 matters under this section, and may commence suit in the name of the department
13 to recover an incorrect payment from the recipient to whom or on whose behalf it was
14 made.

15 **SECTION 8.** 49.497 (5) of the statutes is created to read:

16 49.497 (5) The department may make an agreement with a recipient, or parent
17 of a minor recipient, who is liable under sub. (1), providing for repayment of an
18 incorrect payment at a specified rate or amount.

19 **SECTION 9.** 49.85 (2) (a) of the statutes is renumbered 49.85 (2) (a) (intro.) and
20 amended to read:

21 49.85 (2) (a) (intro.) At least annually, the department of health and family
22 services shall certify to the department of revenue the amounts that, based on the
23 notifications received under sub. (1) and on other information received by the
24 department of health and family services, the department of health and family
25 services has determined that it may recover under s. 49.45 (2) (a) 10. or 49.497, except

that the department of health and family services may not certify an amount under this subsection unless it all of the following apply:

1. The department has met the notice requirements under sub. (3) and unless its.

2. The department's determination has either not been appealed or is no longer under appeal.

SECTION 10. 49.85 (2) (a) 3. of the statutes is created to read:

49.85 (2) (a) 3. If the determination relates to recovery of an amount under s. 49.497, the determination was rendered to a judgment under s. 49.497 (1m) (b).

SECTION 9321. Initial applicability; health and family services.

(1) RECOVERY OF INCORRECT PAYMENTS.

(a) ~~BadgerCare~~ ^{Incurred payments} The treatment of sections 49.497 (title) and (2) of the statutes

~~and~~ the renumbering and amendment of section 49.497 (1) of the statutes first apply to incorrect payments made ~~under the BadgerCare health care program~~ on the effective date of this paragraph.

(b) ~~Medical Assistance and BadgerCare~~ ^{Recovery procedure} The treatment of sections 20.435 (4) (L) and 49.497 (1m), (4), and (5) of the statutes, the renumbering and amendment of section 49.85 (2) (a) of the statutes, and the creation of sections ~~49.497 (1) (a) 3 and~~ 49.85 (2) (a) 3. of the statutes first apply to incorrect ~~payments made under Medical Assistance or the BadgerCare health care program~~ on the effective date of this paragraph.

(END)

payment recoveries
that are commenced

and the creation of section 49.497(1)(a)3. of the statutes

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0879/3ins
PJK:jld:ch

INSERT 6-21

no 6+ , regardless of when the incorrect payments were made no 6+

(END OF INSERT 6-21)